

REMARKS

STATUS OF CLAIMS

Claims 1-3 and 8-18 are now pending in this application. Claims 4 and 7 were previously canceled without prejudice or disclaimer and claims 5 and 6 are now canceled without prejudice or disclaimer. Claims 1, 3, and 9 have been amended and new claims 11-18 have been added, all without the introduction of any new matter.

SUMMARY OF THE OFFICE ACTION

The outstanding Office Action is a non-final Action that acknowledges consideration of the reference filed with the IDS of February 17, 2009.

In addition to this formal acknowledgement, the outstanding Office Action presented a rejection of claims 1-3, 6¹, 8, and 10 under 35 U.S.C. § 102(e) as being anticipated by Cheetham et al. (U.S. Patent Application Publication No. 2005/0077499, hereinafter "Cheetham") or, in the alternative, under 103(a) as being unpatentable over Cheetham, a rejection of claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Cheetham in view of Mueller-Mach et al. (U.S. Patent Application Publication No. 2004/0256974, hereinafter "Mueller-Mach"), and a rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Cheetham in view of Justel et al. (U.S. Patent No. 6,084,250, hereinafter "Justel").

ALTERNATIVE 102/103 REJECTIONS

Item 6 on page 3 of the outstanding Action sets forth the above-noted rejection of claims 1-3, 6², 8, and 10 under 35 U.S.C. § 102(e) as being anticipated by Cheetham or, in the alternative, under 103(a) as being unpatentable over Cheetham. The cancellation of claim 6 renders the apparent rejection thereof on this ground moot. The rejection as applied to claims 1-3, 8, and 10 is traversed.

¹ The number 6 was apparently listed here by mistake as no attempt is made to explain how Cheetham alone anticipates the subject matter of claim 6 or renders it obvious. Instead, claim 6 subject matter is discussed based upon the rejection thereof over Cheetham in view of Mueller-Mach at page 5 of the outstanding Action.

² See note 1.

Amended independent claim 1 clearly recites, among other things, that the claimed light-emitting device includes “a solid material illuminant that is made up of a medium that transmits the blue-violet light with low loss and an absorbent for absorbing said blue-violet light, the absorbent containing Sm of 0.01 to 10 mol%,” where the medium of the solid material illuminant that has to be transparent to the blue-violet light “is selected from the group consisting of GaN, AlN, InGa₂N, InAlN, InGaAlN, Si₃N₄, GaNP, AlNP, InGaNP, InAlNP, InGaAlNP, GaNAs, AlNAs, InGa₂NAs, InAlNAs, InGaAlNAs, GaNAsP, AlNAsP, InGa₂NAsP, InAlNAsP, InGaAlNAsP, ZnSe, and ZnSSe.

To whatever extent that paragraph [0033] of Cheetham teaches an absorbent “containing Sm of 0.01 to 10 mol%,” it is as Sm³⁺ (as Sm₂O₃) dopant atoms “added at a doping concentration of about 5 mol% as part of the red phosphors listed in table 2 as examples 10-19. Clearly missing here and elsewhere in Cheetham (as in relied on paragraph 19 and table 1 standard red phosphor) is a teaching or reasonable suggestion of the claimed inclusion of an absorbent containing Sm of 0.01 to 10 mol% with the claimed medium (of the solid material illuminant selected from the group consisting of GaN, AlN, InGa₂N, InAlN, InGaAlN, Si₃N₄, GaNP, AlNP, InGaNP, InAlNP, InGaAlNP, GaNAs, AlNAs, InGa₂NAs, InAlNAs, InGaAlNAs, GaNAsP, AlNAsP, InGa₂NAsP, InAlNAsP, InGaAlNAsP, ZnSe, and ZnSSe) to form the claimed “solid material illuminant that is made up of a medium that transmits the blue-violet light with low loss and an absorbent for absorbing said blue-violet light.”

In view of the above, independent claim 1 and claims 2, 3, 8, and 10 that ultimately depend on independent claim 1 are respectfully submitted to be clearly patentable over the reasonable teachings and fair suggestions of Cheetham. Accordingly, the withdrawal of the rejection of claims 1-3, 8, and 10 under 35 U.S.C. § 102(e) as being anticipated by Cheetham or, in the alternative, under 103(a) as being unpatentable over Cheetham is respectfully requested.

REJECTION OF CLAIMS 5 AND 6

Item 8 on page 5 of the outstanding Action sets forth the above-noted rejection of claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Cheetham in view of Mueller-Mach. As claims 5 and 6 have been canceled, this rejection is clearly moot.

REJECTION OF CLAIM 9

Item 9 on page 5 of the outstanding Action sets forth the above-noted rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Cheetham in view of Justel.

To whatever extent that Justel teaches phosphors as containing rare earth elements, it does not cure the above-noted deficiencies of Cheetham. Accordingly, claim 9 patentably defines over the applied references for at least the same reason that parent independent claim 1 does and withdrawal of this improper rejection of claim 9 under 35 U.S.C. §103(a) as being allegedly unpatentable over Cheetham in view of Justel is respectfully requested.

NEW CLAIMS 11-18

New claim 11 has been added to depend from claim 3 that in turn depends from independent claim 1. Accordingly, this new dependent claim 11 patentably defines over the applied references for at least the same reasons that independent claim 1 does.

New claim 12 is an added independent claim that parallels independent claim 1 in terms of also requiring, among other things, that the claimed light-emitting device includes “a solid material illuminant that is made up of a medium that transmits the blue-violet light with low loss and an absorbent for absorbing said blue-violet light, the absorbent containing Sm of 0.01 to 10 mol%.” New independent claim 12 differs from independent claim 1 in that it limits the blue-violet light transmitting medium to be one containing “at least one of nitrides of Ga, In, and Al” as disclosed at page 9, lines 22-26 of the specification.

Just as none of Cheetham, Mueller-Mach, or Justel teach or suggest the blue-violet light transmitting medium specified by independent claim 1, they also do not teach or suggest the blue-violet light transmitting medium specified by new independent claim 12.

As new dependent claims 13-18 all ultimately depend from new independent claim 12, these claims are respectfully submitted to clearly patentably define over the reasonable teachings and fair suggestions found in any of Cheetham, Mueller-Mach, or Justel for at least the same reasons that new independent claim 12 does.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Jr., Reg. No. 40,440 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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